

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
JAY P. MOSKOWITZ and	:	
NADINE K. BADDOUR,	:	
	:	CASE NO. 10-73348-WLH
	:	
Debtors.	:	
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**APPLICATION FOR APPROVAL OF EMPLOYMENT OF LAMBERTH,
CIFELLI, STOKES, ELLIS & NASON, P.A., AS ATTORNEYS FOR THE TRUSTEE**

COMES NOW Cathy L. Scarver, in her capacity as Chapter 7 Trustee (the "Trustee" or "Applicant") for the bankruptcy estates of Jay P. Moskowitz and Nadine K. Baddour (the "Debtors"), and hereby files this Application for Approval of Employment of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A. as attorneys for the Trustee (the "Application"). In support thereof, the Trustee shows the Court as follows:

1. Applicant has been appointed as Chapter 7 Trustee for the above-named estates and is duly qualified.
2. In order to administer this case in a proper, efficient, and economical manner, Applicant requires the services of legal counsel.
3. Applicant shows that it is necessary to retain an attorney to render legal services in assisting Applicant with evaluating the extent and validity of liens against various assets of the estates; counsel and assist Applicant with obtaining Court authority to sell property of the estates

that is determined to be valuable; and provide counsel in analyzing and indentifying property of the estate. Other services may include, depending upon developments in the case:

(a) Advise, assist, and represent Applicant with respect to Applicant's rights, powers, duties, and obligations in the administration of this case, and the collection, preservation, and administration of assets of the estates of Debtors;

(b) Advise, assist, and represent Applicant with regard to any claims against the Debtors and with regard to any claims and causes of action which the estates may have against various parties including, without limitation, claims for preferences, fraudulent conveyances, improper disposal of assets, and other claims or rights to recovery granted to the estates; to institute appropriate adversary proceedings or other litigation and to represent Applicant therein with regard to such claims and causes of action; and to advise and represent the Applicant with regard to the review and analysis of any legal issues incident to any of the foregoing;

(c) Advise, assist, and represent Applicant with regard to investigation of the desirability and feasibility of the rejection or assumption and potential assignment of any executory contracts or unexpired leases, and to advise, assist, and represent Applicant with regard to liens and encumbrances asserted against property of the estates and potential avoidance for the benefit of the estates, within the Trustee's rights and powers under the Bankruptcy Code, and the initiation and prosecution of appropriate proceedings in connection therewith;

(d) Advise, assist, and represent Applicant in connection with all applications, motions, or complaints concerning reclamation, sequestration, relief from stays, disposition or other use of assets of the estates, and all other similar matters;

(e) Advise, assist, and represent Applicant in connection with the sale or other disposition of any assets of the estates determined to be valuable, including, without limitation, the investigation and analysis of the alternative methods of effecting same; employment of auctioneers, appraisers, or other persons to assist with regard thereto; negotiations with prospective purchasers and the evaluation of any offers received; the drafting of appropriate contracts, instruments of conveyance, and other documents with regard thereto; the preparation, filing, and service as required of appropriate motions, notices, and other pleadings as may be necessary to comply with the Bankruptcy Code with regard to all of the foregoing; and representation of Applicant in connection with the consummation and closing of any such transactions;

(f) Prepare pleadings, applications, motions, reports, and other papers incidental to administration, and to conduct examinations as may be necessary pursuant to Bankruptcy Rule 2004 or as otherwise permitted under applicable law;

(g) Provide support and assistance to Applicant with regard to the proper receipt, disbursement, and accounting for funds and property of the estates; and

(h) Perform any and all other legal services incident or necessary to the proper administration of this case and the representation of Applicant in the performance of Applicant's duties and exercise of Applicant's rights and powers under the Bankruptcy Code.

4. Applicant wishes to employ the law firm of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A. (the "Firm"), 3343 Peachtree Road NE, East Tower, Suite 550, Atlanta, Georgia, 30326, (404) 262-7373, as Applicant's attorneys herein. Applicant shows that the attorneys practicing with said law firm are admitted to practice in this Court, have knowledge and experience with regard to the matters in which the firm is to be engaged, and are well qualified to represent Applicant. Included with the Firm's Bankruptcy Rule 2014 Verification attached hereto as Exhibit "A" is a statement with regard to its qualifications and the terms and conditions of its employment, including the current rates and policy regarding reimbursement of expenses. Applicant anticipates seeking reasonable compensation based upon the recognized factors. No compensation will be paid by Applicant to said law firm except upon application to and approval by the Bankruptcy Court after notice and hearing as required by law.

5. To the best of Applicant's knowledge, the law firm of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., represents no interest adverse to Applicant, Debtors, or these estates in the matters upon which it is to be engaged, said attorneys are disinterested persons under 11 U.S.C. §101(14) with regard to the matters upon which they are to be engaged, and the appointment of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., will be in the best interests of the estates, the Debtors, creditors of Debtors, and other parties in interest.

WHEREFORE, Applicant prays for authority to retain and employ the law firm of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., in this case for the purposes specified herein above, and that Applicant have such other and further relief as may be just and proper.

This 20th day of October, 2010.

/s/ Cathy L. Scarver
Cathy L. Scarver
Chapter 7 Trustee
Georgia Bar No. 628455

P.O. Box 672587
Marietta, GA 30006
(404) 551-5140

EXHIBIT "A"

**RULE 2014 VERIFICATION WITH REGARD TO
EMPLOYMENT OF ATTORNEYS**

The undersigned hereby declares under penalty of perjury:

1. I am a member with the law firm of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., a professional association engaged in the practice of law with offices at 3343 Peachtree Road NE, Suite 550, Atlanta, Georgia 30326. All attorneys practicing with the Firm are attorneys at law duly admitted to practice in the State of Georgia and in the United States District Court, Northern District of Georgia.

2. The Firm has been asked to represent the Trustee in the bankruptcy case of Jay P. Moskowitz and Nadine K. Baddour. To the best of my knowledge: except as disclosed below, the Firm has no professional, business, or other connection with the aforementioned Debtors, attorney, creditors, or any party in interest in this case; and the Firm represents no interest which would be adverse to the estates of the Debtors in connection with the matters upon which the Firm is to be engaged.

(a) The Firm currently and has previously represented Jeffrey W. Kerr (in his capacity as a bankruptcy trustee) as special or general counsel in unrelated bankruptcy cases. Applicant further discloses that it is anticipated that Trustee Scarver will seek approval of employment of Jeffery K. Kerr, LLC, as accountant to the trustee in this case.

(b) The Firm currently represents Cathy L. Scarver in her capacity as trustee in bankruptcy cases unrelated to this case. In addition, the Firm represents Cathy L. Scarver in her capacity as trustee in the case of eMedicalFiles, Inc., case no. 09-68025-wlh. Jay P. Moskowitz executed the petition in the eMedicalFiles, Inc. case as the chief executive officer of eMedicalFiles, Inc., and he appeared and testified at the section 341 meeting as the debtor representative.

3. The Firm is not a creditor, an equity security holder or an insider of the Debtors. The Firm is not and was not within two years before the petition date, a director, officer or employee of the Debtors or of an investment banker of the Debtors.

4. Accordingly, I think the Firm is a "disinterested person" as that term is defined in the Bankruptcy Code.

5. Attached is a Firm Description which describes the qualifications of the Firm and its current attorneys and the terms and conditions of employment, including hourly rates currently charged by the Firm.

6. The Firm does not expect nor will it seek any compensation from the estates except upon application to and approval by the Bankruptcy Court after notice and hearing.

Dated this 20th day of October, 2010.

By: /s/ J. Michael Lamberth
J. Michael Lamberth
Georgia Bar No. 431975

LAMBERTH, CIFELLI, STOKES, ELLIS & NASON, P.A.

Atlanta Financial Center
3343 Peachtree Road, NE
East Tower, Suite 550
Atlanta, Georgia 30326-1022
(404) 262-7373
(404) 262-9911 (fax)
www.LCSENlaw.com

FIRM RESUME

Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., a professional association organized in 1972, is engaged in a general civil practice, with emphasis and concentrations in the areas of creditor's rights, bankruptcy and insolvency law, business reorganization, general business, and trial and appellate practice. The Firm has an "av" rating in the Martindale-Hubbell Law Directory.

Within the framework of its creditor/debtor law and bankruptcy practice, the Firm has substantial experience in the representation of clients in bankruptcy cases, representation of trustees, state court receivers, Chapter 11 Debtors, creditor's committees, and other fiduciaries in business bankruptcy cases. Members of the Firm have served as Chapter 11 and Chapter 7 Trustees and state court receivers.

The Firm charges a reasonable fee, taking into account the time and value of services rendered. Currently, time is generally charged at rates ranging from \$180 to \$425 per hour for attorney time and \$110 to \$155 per hour for paralegal time. Other relevant factors taken into account in setting a reasonable fee include the amounts involved and the results achieved in the representation, the novelty and complexity of the issues presented, and any time constraints imposed by the client or the circumstances. The Firm also charges for expenses incurred in connection with the provision of legal services as set forth in the attached Expense Description.

All attorneys practicing with the Firm are members of the State Bar of Georgia and are admitted to practice before the United States District Court of the Northern District of Georgia. The attached Attorney Resume sets forth the names, qualifications, and proposed hourly rates of the Firm's attorneys. Each attorney's hourly rate is subject to adjustment in accordance with economic conditions and changes in his or her qualifications, experience, and ability. The Firm may hire additional associate attorneys, whose hourly rates will be determined in accordance with their qualifications, experience, and ability.

ATTORNEY RESUME

Members

J. Michael Lamberth (\$425.00 per hour). B.E., magna cum laude, Vanderbilt University, 1970; J.D., with distinction, Duke University, 1973. Admitted to bar, 1974. Law clerk to: the Honorable Sidney O. Smith, Jr., Chief U.S. District Court Judge for the Northern District of Georgia, 1973-74; the Honorable James C. Hill, U.S. District Court Judge for the Northern District of Georgia, 1974-75. State Bar of Georgia Bankruptcy Section - Member, Board of Directors 1993-1997; Treasurer 1994-1995; Vice-Chair, 1995-1996; Chair, 1996-1997. Advisory Committee of the Judicial Conference of the United States, Federal Rules of Bankruptcy Procedure (appointed by the Chief Justice for an additional three year term commencing October 2008). Director, Southeastern Bankruptcy Law Institute.

James Craig Cifelli (\$425.00 per hour). A.B., cum laude, Duke University, 1973; J.D., Vanderbilt University, 1976. Admitted to bar, 1976. Speaker at seminars for lawyers and credit managers on topics relating to bankruptcy, enforcement of creditor's rights and collection of accounts. (Also admitted in Connecticut).

Gary D. Stokes (\$320.00 per hour). A.B., summa cum laude, University of Georgia, 1974; J.D., University of Georgia, 1978. Admitted to bar, 1978. Phi Beta Kappa, Phi Kappa Phi. (Also admitted in South Carolina).

G. Frank Nason, IV (\$375.00 per hour). B.A., Vanderbilt University, 1983; J.D., cum laude, Walter F. George School of Law, Mercer University, 1986. Admitted to bar, 1986. Member, 1984-85 and Managing Editor Staff, 1985-86, MERCER UNIVERSITY LAW REVIEW; Recipient, American Jurisprudence Award for Property, II.

Gregory D. Ellis (\$375.00 per hour). B.S., University of Pennsylvania, 1984; J.D., with distinction, Emory University, 1989. Admitted to bar, 1989. C.P.A., licensed in State of New York, 1986. (Also admitted in New York).

Stuart F. Clayton, Jr. (\$315.00 per hour). B.A., University of North Carolina, 1983; J.D., University of North Carolina, 1987. Admitted to bar, 1989. Articles Editor, NORTH CAROLINA JOURNAL OF INTERNATIONAL LAW AND COMMERCIAL REGULATION, 1986-87. (Also admitted in North Carolina).

Associates

Sharon K. Kacmarcik (\$300.00 per hour). B.S., highest honors, University of Illinois, 1988; J.D., with distinction, Emory University, 1991. Admitted to bar, 1991. Professional Articles Editor, EMORY INTERNATIONAL LAW REVIEW, 1990-91. Law Clerk to the Honorable Sam B. Hall, Jr., United States District Judge, Eastern District of Texas, 1991-92. (Also admitted in Texas and Illinois).

William D. Matthews (\$285.00 per hour). B.S., magna cum laude, University of South Carolina, 1983; J.D., with honors, Duke University, 1986. Admitted to bar, 1986. Law clerk to the Honorable W. Homer Drake, Jr., United States Bankruptcy Court, Northern District of Georgia, 1986 - 1989.

Robert B. Campos (\$250.00 per hour). B.A., Emory University, 1998; J.D. (Cum laude) and M.B.A., Georgia State University College of Law and J. Mack Robinson College of Business, 2001. Admitted to bar, 2002. Moot Court Board (Nat'l App. Adv'cy and ABA Nat'l App. Adv'cy Teams; Best Overall Advocate, Moot Court Board App. Adv'cy Competition), 1999-2001. Vice-President, Asian American Law Students Association, 1999-2000.

Christopher D. Phillips (\$200.00 per hour). B.A., Northwestern University, 1993; J.D., cum laude, University of Georgia School of Law, 2002. Admitted to bar, 2002. Recipient, Southeastern Bankruptcy Law Institute Scholarship, 2002. Law Clerk to the Honorable Judges Davis, Walker, and Dalis, United States Bankruptcy Court for the Southern District of Georgia, 2003-2005.

Maggie O. Rentz (\$180.00 per hour). B.S., cum laude, Florida State University, 2003; J.D., cum laude, University of Georgia School of Law, 2006. Admitted to bar, 2006. Articles Editor, GEORGIA LAW REVIEW, 2005-2006. Law Clerk to The Honorable James E. Graham, United States Magistrate Judge for the Southern District of Georgia, 2006-2008.

LAMBERTH, CIFELLI,
STOKES, ELLIS & NASON, P.A.

Expense Description

Out-of-pocket expenses incurred in connection with the provision of legal services are charged to the client for reimbursement of the amount expended. These charges typically include: court filing fees; court reporting fees for appearances or transcriptions in connection with testimony at hearings, trials, depositions or examinations; record search fees by independent services; out-of-town express courier charges; postage; travel expenses (including lodging and air fare); costs for working luncheons or dinners and out-of-town meals; charges for copies of documents outside the office and applicable certification fees (public records, court documents, opposing counsel charges); and online research (actual cost or, in the case of services available for a flat fee, a charge based on the estimated average cost of the services).

The Firm contracts with an independent courier service for deliveries within the metropolitan Atlanta area. The Firm charges either actual cost per delivery or a pro rated charge based on the estimated cost of the service in the event of multiple deliveries.

The Firm also charges for the following:

Photocopies (10 cents per page)

Long Distance Telephone Toll charges (cost plus nominal administrative charge)

Telecopy Transmissions and Receipts (25 cents per page sent or received)

Local travel (mileage at rates consistent with the then applicable Internal Revenue Code Procedure is 50 cents per mile)

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the foregoing Application for Approval of Employment of Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., as Attorneys for the Trustee upon all those parties listed below by depositing same in the U. S. mail in a properly addressed envelope with adequate postage (first class) affixed thereon to assure delivery to:

Office of the U.S. Trustee
362 Richard B. Russell Federal Building
75 Spring Street SW
Atlanta, GA 30303

Evan M. Altman
Building 2, Northridge 400
8325 Dunwoody Place
Atlanta, GA 30350

This 20th day of October, 2010.

/s/ Cathy L. Scarver
Cathy L. Scarver
Chapter 7 Trustee